IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3934 OF 2006

M/s. Kariya Builders ..Petitioner

Vs.

Employees State Insurance Corporation ..Respondent

Mr. T.R. Yadav h/f Mr. A.D. Patwardhan and Mr.Nilesh Malunjkar for petitioner.

Mr. P.M. Palshikar for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : August 21, 2006.

P.C.:

1. Heard the learned counsel for the petitioner. Mr. Palshikar the learned counsel for the respondent-Corporation has referred to the provisions of Section 82 of the Employees State Insurance Act, 1948 and submitted that against the impugned order passed by the Industrial Court a remedy of appeal is available to the petitioner under the said section. The learned counsel for the petitioner submitted that the remedy of appeal under Section 82 of the Act is available only on substantial questions of law and as the petitioner has not raised any substantial questions of law against the impugned order, the

petition is required to be entertained.

2. The very same issue has been considered by me in Writ Petition No.1363 of 2005 and rejected and more particularly in the following words:-

> "When an appeal is presented before the court under Section 82 of the E.S.I. Act, the issue of substantial questions of law would be considered on the lines of the observation made in Santosh Hazari's case [(2001) 3 SCC 179] and the contentions of the petitioner that the petition should be straightway entertained under Articles 226 and 227 of the Constitution of India cannot be entertained when a statutory remedy of appeal is available against the impugned order."

3. The petition is, therefore, allowed to be withdrawn with liberty to file an appeal under Section 82 of the Act. If such an appeal is filed within a period of three weeks from today, the respondent-Corporation will not take any coercive steps against the petitioner during the said period of three weeks.

(B.H. Marlapalle,J.)